c-f-1001 (1)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P. No.2149/2004

PETITIONER

P. R No. 1801/04
Presented by Shri Manish U. Padhyay
dated 29-6-04

RECEIVED-COPY
29/6/04
Clerk to A. G. Bilaspur

P. Janki Ramchandra Rao
aged about 34 years
S/o Late P. Paidayya
R/o 'Surya Kant Niwas'
Gandhi Nagar, Kosanala,
Bhilai Nagar,
District-Durg (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh
Through Secretary
Department of Energy
D.K.S. Bhawan,
Raipur (C.G.)

2. Chhattisgarh State
Electricity Board
Through ~~its Chairman~~ The Secretary (Mau 27-08-04)
Dangania, Raipur (C.G.)

Amendment made as per the order of the Hon'ble court dated 31-08-04 (Mau 27-08-04)
(Manish Upadhyay, Advocate)

Amendment made as per the order of the Hon'ble court dated 31-08-04.
(Mau 27-08-04) (Manish Upadhyay, Advocate)

C.f. 1006 (1)

IN THE HIGH COURT OF JUDICA

PETITIONER

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Presented by Shri Manish J. Padhyay
dated 29-6-04

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Clerk to A.G. Bilaspur

VERS

RESPONDENTS

1. S
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2.

"A"
Amendment made as per the order of the Hon'ble court dated 13-08-04
24-08-04
(Manish Upadhyay, Advocate)

न्यायालय आयुक्त
संभाग बिलासपुर
27/8/04
बिलासपुर (छत्तीसगढ़)

3. Madhya Pradesh Electricity Board, Through- Its Secretary Shakti Bhawan Rampur, Jabalpur (M.P.).

4. Union of India, Through- The Secretary Department/ Ministry of the Power, New Delhi.

"A"
Verified
Attested
30/8/04
APC

ART 2 - Amendment made as per the ord
13-08-04 (Manish Upadhyay, Ad

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक W.P. 2149 **/सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	11-7-2006 Mr. Anand Pandey, counsel for the petitioner. Mr. A.S. Kachhawaha, Govt. Advocate for the State/respondent No.1. Mr. A.S. Gaharwar with Mr. Rawan Shrivastava, counsel for respondent No.2. Mr. Vivek Verma, counsel for respondent No.3. Mr. S.K. Beriwal, Central Govt. Counsel for respondent No.4. By this writ petition under Article 226 of the Constitution of India, the petitioner has prayed for direction respondent No.2 to consider the case of the petitioner for compassionate appointment and quash the circulars dated 1-3-2002 and 28-2-2004. The case of the petitioner is that his father Late P. Paidayya was working as Attendant Grade-II in Workshop Division, Bhilai-3, Durg and he died in harness on 18-10-1998. On the demise of his father, the petitioner submitted an application for compassionate appointment to the erstwhile MPEB (Annexure P-4) on 19-11-1998. However, that application remain pending and no final decision was taken. In the meantime, on account of reorganisation of the State of Madhya Pradesh with effect from 1-11-2000, MPEB was also bifurcated w.e.f. 15-11-2000 and from that date CSEB came into existence. Thereafter, the new policy dated 28-2-2004 was formulated by CSEB. As per the reply of CSEB, the case of the petitioner has not been considered on the ground that as per the policy dated 28-2-2004, dependants of those employees who died on or after 15-11-2000 are entitled for compassionate appointment.	

(पीछे देखिये)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.2149/ **सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

In para 10 of the reply of respondent No.3 MPEB, it has been mentioned that on formation of CSEB the case of the petitioner has been transferred to CSEB on 22-1-2002, wherein the petitioner's name appears at serial No.48.

I have heard learned counsel for the parties.

Under sub-section (4) of Section 58 of the M.P. Reorganisation Act, 2000, the assets and liabilities and employees of undivided Board are to be distributed among MPEB and CSEB. Vide order dated 6th January, 2004, Government of India, Ministry of Power, issued an order in which it has been mentioned that representatives of both the States agreed in a meeting taken by the Secretary (Power) on 20th March, 2003, that the division of employees would be in line with policy adopted for division of employees of MP Government. In para 2, it has been mentioned that the matter has been considered and in partial modification of provisional order dated 12th April, 2001, so far as relating to the division of employees it has been decided finally to divide the posts and employees on the lines followed by DOPT for allocation of post and employees of the State Government of erstwhile Madhya Pradesh for making allocation of posts and persons to the successor Electricity Board of MPEB on the principle that posts relatable to territorial jurisdiction of a successor State may be allotted to respective States and similarly employees belonging to such sub State territorial cadres being allocated to concerned State and only dividing the remaining posts and employees between the two States, the Government of India has decided to appoint a 3 members State Advisory Committee to be headed by the same person who was the Chairman of SAC appointed by DOPT for Madhya Pradesh. Therefore, on this principle the

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आदेश पत्रक

मामला क्रमांक W.P.2149/ **सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित – 3 –	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

employees of MPEB who were working in the territory of newly created Chhattisgarh are to be allocated to the successor Chhattisgarh State Electricity Board on the principle and line followed by DOPT for allocation of posts and employees of the State Government of erstwhile State of Madhya Pradesh.

Therefore, in view of the above, services of the petitioner's father were to be allocated to CSEB, as he was working in the territorial jurisdiction of CSEB, as such, the liability regarding compassionate appointment lies on the shoulders of CSEB. On similar line, even the State of Chhattisgarh, which came into existence on 1-11-2000, has taken a decision that dependants of those employees, who died on or after 1-11-1997 and were working in the existing territory of Chhattisgarh, are entitled for compassionate appointment. Same principle applies to CSEB also. When the petitioner moved application for compassionate appointment, the policy dated 30th January, 1997 was in existence. Therefore, his case ought to have been considered on the basis of the policy existing when the petitioner made application and his father died. In his case, the new policy cannot be pressed into service.

Accordingly, the petition of the petitioner is allowed and respondent No.2 CSEB is directed to consider the case of the petitioner for compassionate appointment in the light of the policy dated 30th January, 1997.

Parties are entitled for certified copy of this order.

Sd/-
L.C.BHADOO
Judge

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